

REMARKS

The present Amendment adds new claims 10-16 and leaves claims 1-9 unchanged. Therefore, the present application has pending claims 1-16.

Applicants acknowledge the Examiner's indication in paragraph 5 of the Office Action that claims 5 and 6 are allowed.

Claims 1-4 and 7-9 stand rejected under 35 USC §102(e) as being anticipated by Yanai (U.S. Patent Publication No. 2004/0073831 A1). This rejection is traversed for the following reasons. Applicants submit that the features of the present invention as now recited in 1-4 and 7-9 are not taught or suggested by Yanai whether taken individually or in combination with each any of the other references of record. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw this rejection.

Various arguments were presented in the December 7, 2004 Amendment distinguishing the features of the present invention as recited in claims 1-4 and 7-9 from the teachings of Yanai. These arguments are incorporated herein by reference.

Particularly, it was shown that Yanai does not teach or suggest the features of the present invention of acquiring at least one of a logical distance and a geographical distance from at least one of the node and the storage resources contained in the storage group and the storage resources contained in the storage group as recited in the claims.

Further, it was shown that Yanai does not teach or suggest other features of the present invention of acquiring from the node a requirement range with respect to at least one of the logical distance and the geographical distance and selecting at

least one storage resource for executing the access request issued from the node from the storage group, while at least one of the requirement range with respect to the logical distance and the requirement range with respect to the geographical distance is set as a selecting condition as recited in the claims.

In the Office Action the Examiner alleges that Yanai teaches the above described features of the present invention in paragraphs [0232] – [0233] and in paragraphs [0029] – [0031]. However, the Examiner fails to understand the teachings of Yanai and particularly the teachings of Yanai in paragraphs [0138] – [0139] and paragraphs [0148] – [0150]. Yanai describes a volume (R1) in the primary site and a volume (R2) in the remotely located secondary site forming a pair volume configuring an adaptive copy and also describes the processing of the adaptive copy. Paragraph [0030] of Yanai simply describes a remote site structure. As per Yanai, the remotely located site has been fixed and determined in advance. Accordingly, Yanai contrary to the present invention describes where the volume (R2) has already been allocated in the remotely located site.

Thus, Yanai does not teach or suggest the features of the present invention as clearly recited in the claims that a storage resource is selected or allocated based on two items of acquired information including a logical distance and a geographical distance between storage resources and a required range which must be satisfied as in the present invention.

In the present invention, the remote storage resource is allocated based on the conditions related to the logical and geographical distances. Thus, the allocated

resources according to the present invention as recited in the claims is not known before hand as in Yanai.

Further, Yanai does not teach or suggest how the storage resources from the host are allocated to which of the storage devices used according to the requirement range and a distance between the storage devices and the host as in the present invention. At no point is there any teaching whatsoever in Yanai where the distance between the computer and the storage resources are used to determine a particular storage resource to use according to whether the distance fits within a required range as in the present invention as clearly recited in the claims.

Therefore, the features of the present invention as clearly recited in the claims are not taught or suggested by Yanai whether taken individually or in combination with any of the other references of record. Accordingly, reconsideration and withdrawal of the 35 USC §102(e) rejection of claims 1-4 and 7-9 as being anticipated by Yanai is respectfully requested.

As indicated above, the present Amendment adds new claims 10-16. New claims 10-16 recite many of the same features shown above not to be taught or suggested by Yanai. In fact, the same arguments presented above with respect to the use of Yanai to reject claims 1-4 and 7-9 apply as well to the potential use of Yanai with respect to the new claims 10-16.

In view of the foregoing amendments and remarks, applicants submit that claims 1-16 are in condition for allowance. Accordingly, early allowance of claims 1-16 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (500.41164X00).

Respectfully submitted,

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